

IN SENATE OF THE UNITED STATES.

JUNE 15, 1848.

Submitted, and ordered to be printed.

Mr. BRADBURY made the following

REPORT:

[To accompany S. bill No. 284.]

The Committee of Claims, to whom was referred the "Petition of the legal representatives of John G. Mackall, deceased, praying indemnity for the destruction of a house during the last war with Great Britain," have had the same under consideration, and respectfully report:

It appears that, during the late war with England, a party of militia was, on the 15th of June, 1814, the day on which the destruction took place, posted, by order of a superior officer, close to the dwelling house of the claimant, in Calvert county, Maryland, for the purpose of preventing the enemy from landing on the shore of the river Patuxent, and of defending the premises. It also appears from the testimony of J. J. Pattison, J. D. Denton, and Benjamin Gray, witnesses, whose credibility is well attested, that the person in immediate command and another officer, were seen by the enemy to enter into, and come out of, the house, and that they were dissuaded, by a person left in charge in the absence of militia, from making any resistance, under the supposition that it would be useless, owing to the superior numbers of the enemy.

It is further in evidence, that the reason given by the enemy for having destroyed the property was, that they had seen the militia in and about the premises, and that one of their marines had been wounded by them.

It is true that it does not appear that the house had been occupied for any considerable length of time, either as a barrack, or as a place of deposit for military stores; but it is clearly shown that the military occupation of the premises was by order of an officer duly authorised to issue the same, and that the destruction of the property was occasioned by the occupation of the premises in the immediate vicinity of the house by the American forces drawn up to resist the landing of the enemy, while the officers in command

were seen entering and coming from the house by the British officers as they advanced upon it.

Although the facts, as above stated, may not bring the claim within the letter of the law of 1816, and the amendment thereto, approved March 3d, 1817, as there does not appear to have been a continuous occupation for military purposes, your committee think that it comes fairly within the equitable construction of those acts. They therefore recommend the passage of the accompanying bill.

REPORT

Mr. BRADDOCK made the following

(The following is all in italics)

The Lieutenant of Clinton to whom was referred the petition of the petitioner, stated that John G. Marshall, deceased, stated that he had been the proprietor of a house during the last war with Great Britain, and that the same was under construction and in a state of completion at the time of the evacuation of the city.

It appears that during the last war with England a party of British soldiers, on the 10th of June, 1814, entered the city and occupied a place, posted by order of a superior officer, near the dwelling house of the claimant, in Clinton county, New York, for the purpose of guarding the enemy from landing on the shore of the river. The company of J. A. Peterson, a British soldier, also appears from the testimony of J. A. Peterson, a British soldier, and Benjamin Gray, witness whose credibility is well established, that the person in command of the company and another officer were seen by the enemy to enter the house and come out of the house, and that they were surrounded by a person left in charge in the absence of the proprietor, who was at a distance in command of a company of militia, from making any resistance, under the supposition that it would be useless, owing to the superior numbers of the enemy. It is further in evidence that the reason given by the enemy for having destroyed the property was that they had seen the militia and about the premises, and that one of their men had been wounded by them.

It is true that it does not appear that the house had been occupied for any considerable length of time, either as a barracks or as a place of deposit for military stores; but it is clearly shown that the military occupation of the premises was by order of an officer, and that the destruction of the same, and also the destruction of the property, was occasioned by the occupation of the premises by the enemy, and that the property was destroyed by the enemy, while the officers in command